

IN THE SENATE

SENATE BILL NO. 1082

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE IDAHO STATE SCHOOL AND HOSPITAL; AMENDING SECTION 36-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-203, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-235, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-1004, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-115, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-116, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-118, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-402, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-501, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 66-503, IDAHO CODE, TO REVISE TERMINOLOGY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING -- LICENSE REQUIREMENT -- EXCEPTIONS. No person shall hunt, trap, or fish for or take any wild animal, bird or fish of this state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(a) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.

2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.

4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.

5. For children under the age of eighteen (18) years who are residents of a licensed foster home or a children's residential care facility to fish during the open season therefor, provided they are accompanied and supervised by the director, officer, or other employee of the facility where the child resides.

6. For children with life-threatening medical conditions participating in a hunt in association with a qualified organization as provided in section 36-408(6), Idaho Code.

1        7. For military veterans with disabilities participating in a hunt  
 2        in association with a qualified organization as provided in section  
 3        36-408(7), Idaho Code.

4        (b) For any person to fish on a "free fishing day" as may be designated  
 5        by the commission.

6        (c) State Long-term Care Facility Residents. For any resident of a  
 7        state long-term care facility to fish during open seasons, provided said  
 8        state long-term care facility has a permit therefor from the director. The  
 9        director is authorized to issue such permits upon the request of the head  
 10       of the respective state long-term care facility having custody of said res-  
 11       ident upon a showing that the state long-term care facility recommends the  
 12       issuance of such permit and will assume full responsibility for and control  
 13       over any resident while using said permit. For purposes of this subsection  
 14       only, "state long-term care facility" shall mean the state hospital north,  
 15       state hospital south, southwest Idaho state school and hospital treatment  
 16       center, and state veterans homes, and "resident" shall mean any individual  
 17       residing and receiving treatment services at a state long-term care facil-  
 18       ity.

19       (d) State Juvenile Corrections Center Students. For students of the  
 20       state juvenile corrections center, under the supervision of an officer of  
 21       the center, to fish during the open season.

22       (e) Boy Scouts. For boy scouts who are official participants in at-  
 23       tendance at national or international encampments at Farragut State Park to  
 24       take fish during the encampment period from Lake Pend Oreille in such areas  
 25       and such numbers as may be designated by the commission.

26       (f) Participants in Fish and Game Sponsored Functions. For persons who  
 27       are official participants in attendance at official department sponsored  
 28       functions including clinics, courses or other educational events, while  
 29       under the supervision of a department approved instructor for the function,  
 30       to fish during any open season, provided that the instructor has been issued  
 31       an educational fishing permit by the director.

32       (g) Nothing contained herein shall be construed to prohibit citizens of  
 33       the United States who are residents of the state of Idaho from carrying arms  
 34       for the protection of life and property.

35       SECTION 2. That Section 56-203, Idaho Code, be, and the same is hereby  
 36       amended to read as follows:

37       56-203. POWERS OF STATE DEPARTMENT. The state department shall have  
 38       the power to:

39       (1) Enter into contracts and agreements with the federal government  
 40       through its appropriate agency or instrumentality whereby the state of Idaho  
 41       shall receive federal grants-in-aid or other benefits for public assistance  
 42       or public welfare purposes under any act or acts of congress heretofore or  
 43       hereafter enacted;

44       (2) Cooperate with the federal government in carrying out the purposes  
 45       of any federal acts pertaining to public assistance or welfare services, and  
 46       in other matters of mutual concern;

47       (3) Cooperate with county governments and other branches of government  
 48       and other agencies, public or private, in administering and furnishing pub-  
 49       lic welfare services;

1 (4) Enter into reciprocal agreements with other states relative to the  
2 provisions of public assistance and welfare services to residents and non-  
3 residents;

4 (5) Initiate and administer public assistance and social services for  
5 persons with physical or mental disabilities;

6 (6) Establish such requirements of residence for public assistance un-  
7 der this act as may be deemed advisable, subject to any limitations imposed  
8 in this act;

9 (7) Define persons entitled to medical assistance in such terms as will  
10 meet requirements for federal financial participation in medical assistance  
11 payments;

12 (8) Accept the legal custody of children committed to it by district  
13 courts of this state under the Child Protective Act, to provide protective  
14 supervision as defined therein, to place children for adoption when such  
15 children are in the legal custody of the state department and are legally  
16 available for adoption and to exercise consent to adoption when the author-  
17 ity to do so is vested in the department by court order or legally authorized  
18 parental relinquishment;

19 (9) Determine the amount, duration and scope of care and services to be  
20 purchased as medical assistance on behalf of needy eligible individuals;

21 (10) Manage and operate the southwest Idaho state school and hospital  
22 treatment center at Nampa, Idaho.

23 SECTION 3. That Section 56-235, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 56-235. SOUTHWEST IDAHO STATE SCHOOL AND HOSPITAL TREATMENT CEN-  
26 TER. The establishment by law of the southwest Idaho state school and  
27 hospital treatment center at Nampa, Idaho, is hereby ratified and affirmed,  
28 and its operation continued; provided, however, that on and after the ef-  
29 fective date of this act, the school and hospital treatment center shall be  
30 in the general supervision, control and government of the state department  
31 of health and welfare. All rights and title to property, real and personal,  
32 belonging to or vested in the state board of health are hereby transferred  
33 and vested in the state department of health and welfare. The state depart-  
34 ment is empowered to acquire, by purchase or exchange, any property which in  
35 the judgment of the department is needful for the operation of the school and  
36 hospital treatment center, and to dispose of, by sale or exchange, any prop-  
37 erty which in the judgment of the department is not needful for the operation  
38 of the same. The department of health and welfare shall have authority to  
39 administer the school and hospital treatment center, to employ and release  
40 such personnel as are required for the operation of the school and hospi-  
41 tal treatment center, fix salaries, and to perform any other necessary and  
42 proper functions in the efficient and beneficial operation of the school and  
43 hospital treatment center.

44 SECTION 4. That Section 56-1004, Idaho Code, be, and the same is hereby  
45 amended to read as follows:

1        56-1004. DIRECTOR -- ADDITIONAL POWERS AND DUTIES. (1) The director  
2 shall exercise the following powers and duties in addition to all other pow-  
3 ers and duties inherent in the position:

4        (a) Prescribe such rules as may be necessary for the administration of  
5 the department, the conduct and duties of the employees, the orderly and  
6 efficient management of department business, and the custody, use and  
7 preservation of department records, papers, books and property belong-  
8 ing to the state;

9        (b) Employ such personnel as may be deemed necessary, prescribe their  
10 duties and fix their compensation within the limits provided by the  
11 state personnel system law;

12        (c) Administer oaths for all purposes required in the discharge of his  
13 duties;

14        (d) Prescribe the qualifications of all personnel of the department on  
15 a nonpartisan merit basis, in accordance with the Idaho personnel sys-  
16 tem law, provided however, that the administrators in charge of any di-  
17 vision of the department, and the administrators in charge of the state  
18 hospital north, state hospital south, and southwest Idaho state school  
19 ~~and hospital~~ treatment center shall serve at the pleasure of the direc-  
20 tor;

21        (e) Create such units, sections and subdivisions as are or may be neces-  
22 sary for the proper and efficient functioning of the department.

23        (2) The department is empowered to acquire, by purchase, lease or ex-  
24 change, any property which in the judgment of the department is needful for  
25 the operation of the facilities and programs for which it is responsible and  
26 to dispose of, by sale, lease or exchange, any property which in the judgment  
27 of the department is not needful for the operation of the same.

28        SECTION 5. That Section 66-115, Idaho Code, be, and the same is hereby  
29 amended to read as follows:

30        66-115. OFFICIALLY NAMING THE STATE HOSPITALS. The hospital lo-  
31 cated at Blackfoot, in the county of Bingham, shall be known as the Sstate  
32 ~~H~~ospital Ssouth; the hospital located at Orofino, in the county of Clearwa-  
33 ter, shall be known as the Sstate ~~H~~ospital Nnorth; the hospital located at  
34 Nampa, in the county of Canyon, shall be known as the southwest Idaho State  
35 ~~School and Hospital~~ treatment center.

36        SECTION 6. That Section 66-116, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38        66-116. INSTITUTIONS UNDER THE JURISDICTION OF THE BOARD. State  
39 ~~H~~ospital Ssouth, Sstate ~~H~~ospital Nnorth and southwest Idaho State School  
40 ~~and Hospital~~ treatment center shall be under the management and control of  
41 the board of health and welfare.

42        SECTION 7. That Section 66-118, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44        66-118. POWERS AND DUTIES OF THE BOARD -- HOSPITALS MANAGED BY -- AN-  
45 NUAL REPORT. The board shall have complete authority to manage and operate

1 the ~~S~~state ~~H~~ospital ~~N~~orth, at Orofino; the ~~S~~state ~~H~~ospital ~~S~~outh, at  
 2 Blackfoot; the southwest Idaho State School and Hospital treatment center at  
 3 Nampa; with authority to establish professional standards of qualifications  
 4 for doctors, nurses, superintendents, general managers, farm managers, at-  
 5 tendants, and all other personnel and may employ a general business manager  
 6 for each of said hospitals, and hospital personnel at said hospitals and  
 7 medical superintendents for each of said hospitals, at its discretion, or a  
 8 superintendent, or director, or manager who may be over all hospitals. The  
 9 board shall have complete authority to, or it is the duty of the board:

10 (a~~1~~) To make rules for the government of said hospitals and to define  
 11 the duties of all employees; provided, that the members of the board shall  
 12 not be personally liable for any act of any employee done in violation of any  
 13 law, or contrary to any rule of the board; nor shall any administrative em-  
 14 ployee of the board be responsible for the act of any other employee done in  
 15 violation of any laws of the state, or rule of the board, or order of the ad-  
 16 ministrative employee;

17 (b~~2~~) To receive, take and hold property, both real and personal, in  
 18 trust for the state and for the use and benefit of such hospitals;

19 (e~~3~~) To visit each of said hospitals at such times as it deems necessary  
 20 and to keep itself advised of all expenses and the condition of buildings and  
 21 property, the safety and treatment of patients, and require the general man-  
 22 ager or superintendent to make periodic reports as to the condition of each  
 23 hospital and treatment of the patients;

24 (d~~4~~) To require the keeping of a complete and accurate set of books of  
 25 each hospital in accordance with the accounting required of other institu-  
 26 tions of the state; to examine and audit the expenditures of each hospital  
 27 and to certify the same to the state controller. The board shall require that  
 28 all itemized bills, purchases and other expenditures made, must be examined  
 29 and approved by the head of the hospital making such purchases or expendi-  
 30 tures and then the same must be certified by the board, and transmitted to the  
 31 state controller to be reviewed and allowed in the same manner as other ac-  
 32 counts against the state are reviewed and allowed. When allowed the state  
 33 controller must draw his warrant on the state treasurer for the amount so  
 34 reviewed and allowed, and the state treasurer is hereby authorized and re-  
 35 quired to pay the same out of any money in the state treasury appropriated  
 36 therefor;

37 (e~~5~~) To make rules and fix the terms and conditions of payment of costs  
 38 of care and treatment of mentally ill persons who are not indigent or who  
 39 are not residents of the state, who are admitted to said ~~S~~state ~~H~~ospital  
 40 ~~N~~orth, ~~S~~state ~~H~~ospital ~~S~~outh, or southwest Idaho State School and Hos-  
 41 pital treatment center, all receipts from such persons to be paid into the  
 42 state treasury and credited to salaries and wages, other current expense, or  
 43 capital outlay of the general fund of the remitting hospital, at the discre-  
 44 tion of the board;

45 (f~~6~~) To enter into reciprocal agreements with similar boards of other  
 46 states for the transfer of residents of those states, who have been invol-  
 47 untarily hospitalized to any of the aforesaid hospitals in this state, or  
 48 the transfer of Idaho residents, who have been involuntarily hospitalized  
 49 to similar hospitals in those states, to the appropriate hospital in this  
 50 state;

1       (~~g~~7) To recognize that or to proceed on the fact that any order of invol-  
 2       untary hospitalization of an Idaho resident, by judicial action of another  
 3       state, shall be sufficient for admitting such resident, without further ju-  
 4       dicial action in this state, to a similar hospital in this state;

5       (~~h~~8) To remove patients in case of necessity, or when they feel it is  
 6       for the betterment of the patient's welfare, to an appropriate place at the  
 7       discretion of the board, and to make necessary negotiations to carry out such  
 8       a procedure;

9       (~~i~~9) To purchase insurance for any of the medical staff in any of the  
 10       hospitals against liability for alleged malpractice by reason of any act, or  
 11       omission, while in the service of the state of Idaho;

12       (~~j~~10) To remove and transfer from one (1) state hospital to another,  
 13       or from a state hospital to a private hospital, or to a hospital of another  
 14       state, or other government agency, any person confined therein, for the pur-  
 15       pose of grouping together classes of mentally ill persons, or to give them  
 16       better medical aid and care;

17       (~~k~~11) To report to the governor each year, a statement of receipts and  
 18       expenditures, the condition of each hospital, the number of patients under  
 19       treatment at each hospital during the preceding year and such other matters  
 20       as may be pertinent, and to make an annual report to the governor in substan-  
 21       tially the same manner on or before ~~the 1st day of~~ December 1 prior to each  
 22       regular session of the legislature;

23       (~~l~~12) To delegate to the head of the hospital, or to a director or super-  
 24       intendent, or manager of all hospitals the powers and duties vested by law in  
 25       the board, at its discretion;

26       (~~m~~13) To initiate, create, or promote procedures, policies and prac-  
 27       tices either as a body or in cooperation with other governmental departments  
 28       or agencies for the general welfare and betterment of the mental health of  
 29       the people of the state of Idaho.

30       SECTION 8. That Section 66-402, Idaho Code, be, and the same is hereby  
 31       amended to read as follows:

32       66-402. DEFINITIONS. As used in this chapter:

33       (1) "Adult" means an individual eighteen (18) years of age or older.

34       (2) "Artificial life-sustaining procedures" means any medical proce-  
 35       dure or intervention which utilizes mechanical means to sustain or supplant  
 36       a vital function. Artificial life-sustaining procedures shall not include  
 37       the administration of medication, and it shall not include the performance  
 38       of any medical procedure deemed necessary to alleviate pain, or any proce-  
 39       dure which could be expected to result in the recovery or long-term survival  
 40       of the patient and his restoration to consciousness.

41       (3) "Department" means the Idaho department of health and welfare.

42       (4) "Director" means the director of the department of health and wel-  
 43       fare.

44       (5) "Developmental disability" means a chronic disability of a person  
 45       which appears before the age of twenty-two (22) years of age and:

46       (a) Is attributable to an impairment, such as intellectual disability,  
 47       cerebral palsy, epilepsy, autism or other condition found to be closely  
 48       related to or similar to one (1) of these impairments that requires sim-

1 ilar treatment or services, or is attributable to dyslexia resulting  
2 from such impairments; and

3 (b) Results in substantial functional limitations in three (3) or more  
4 of the following areas of major life activity: self-care, receptive and  
5 expressive language, learning, mobility, self-direction, capacity for  
6 independent living, or economic self-sufficiency; and

7 (c) Reflects the need for a combination and sequence of special, in-  
8 terdisciplinary or generic care, treatment or other services which are  
9 of lifelong or extended duration and individually planned and coordi-  
10 nated.

11 (6) "Emancipated minor" means an individual between fourteen (14) and  
12 eighteen (18) years of age who has been married or whose circumstances indi-  
13 cate that the parent-child relationship has been renounced.

14 (7) "Evaluation committee" means an interdisciplinary team of at least  
15 three (3) individuals designated by the director or his designee to evaluate  
16 an individual as required by the provisions of this chapter. Each committee  
17 must include a physician licensed to practice medicine in the state of Idaho,  
18 a licensed social worker and a clinical psychologist or such other individ-  
19 ual who has a master's degree in psychology as designated by the department  
20 director. Each committee member must be specially qualified by training and  
21 experience in the diagnosis and treatment of persons with a developmental  
22 disability.

23 (8) "Facility" means the southwest Idaho state school and hospital  
24 treatment center, a nursing facility, an intermediate care facility, an  
25 intermediate care facility for people with intellectual disabilities, a  
26 licensed residential or assisted living facility, a group foster home, other  
27 organizations licensed to provide twenty-four (24) hour care, treatment  
28 and training to the developmentally disabled, a mental health center, or an  
29 adult and child development center.

30 (9) "Lacks capacity to make informed decisions" means the inability, by  
31 reason of developmental disability, to achieve a rudimentary understanding  
32 of the purpose, nature, and possible risks and benefits of a decision, after  
33 conscientious efforts at explanation, but shall not be evidenced by improv-  
34 ident decisions within the discretion allowed nondevelopmentally disabled  
35 individuals.

36 (10) "Likely to injure himself or others" means:

37 (a) A substantial risk that physical harm will be inflicted by the re-  
38 spondent upon his own person as evidenced by threats or attempts to com-  
39 mit suicide or inflict physical harm on himself; or

40 (b) A substantial risk that physical harm will be inflicted by the re-  
41 spondent upon another as evidenced by behavior which has caused such  
42 harm or which places another person or persons in reasonable fear of  
43 sustaining such harm; or

44 (c) That the respondent is unable to meet essential requirements for  
45 physical health or safety.

46 (11) "Manage financial resources" means the actions necessary to ob-  
47 tain, administer and dispose of real, personal, intangible or business  
48 property, benefits and/or income.

49 (12) "Meet essential requirements for physical health or safety" means  
50 the actions necessary to provide health care, food, clothing, shelter, per-

1   sonal hygiene and/or other care without which serious physical injury or  
2   illness would occur.

3       (13) "Minor" means an individual seventeen (17) years of age or less.

4       (14) "Protection and advocacy system" means the agency designated by  
5   the governor of the state of Idaho to provide advocacy services for people  
6   with disabilities pursuant to 42 U.S.C. section 6042.

7       (15) "Respondent" means the individual subject to judicial proceedings  
8   authorized by the provisions of this chapter.

9       SECTION 9. That Section 66-501, Idaho Code, be, and the same is hereby  
10   amended to read as follows:

11       66-501. CREATION OF PATIENTS' TRUST FUND. There shall be established  
12   in the respective offices of the superintendents or managers of each state  
13   hospital and the ~~southwest Idaho state school and hospital~~ treatment center,  
14   a fund to be known as the patients' trust fund.

15       SECTION 10. That Section 66-503, Idaho Code, be, and the same is hereby  
16   amended to read as follows:

17       66-503. CUSTODY OF MONEY -- DUTY OF SUPERINTENDENT OR MANAGER. All  
18   moneys so held in trust shall be kept by the superintendent or manager, sub-  
19   ject to be returned to the person or persons from whom any part of such fund  
20   has been taken for deposit in trust, except any portion thereof applied to  
21   such patient's expenses while in said state hospital or the southwest Idaho  
22   ~~state school and hospital~~ treatment center or applied to the payment of the  
23   funeral expenses of said patient, upon his death, release or discharge from  
24   the said institution; provided, however, that if any patient who dies or has  
25   been discharged or escaped from any state hospital or the southwest Idaho  
26   ~~state school and hospital~~ treatment center does not present, personally or  
27   through his legal guardian, heirs or assigns, a claim against the said trust  
28   fund for repayment to him of money to his credit in said trust fund for pa-  
29   tients within five (5) years from the date of his death, discharge or escape  
30   as certified to the state controller of the state of Idaho by the officer in  
31   charge of said institutions, said money shall escheat to the state of Idaho  
32   and shall be transferred to the general fund thereof by the state controller  
33   and the superintendent.